

House Study Bill 249 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
GOVERNMENT OVERSIGHT BILL
BY CHAIRPERSON KAUFMANN)

A BILL FOR

1 An Act relating to the construction, erection, maintenance,
2 or operation of electric transmission lines and hazardous
3 liquid pipelines, and including effective date and
4 applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 478.3, subsection 3, Code 2015, is
2 amended to read as follows:

3 3. a. For the purpose of this ~~section~~ chapter, the term
4 "public" when used in relation to public interest, public use,
5 or needs of the public shall not be interpreted to refer to and
6 be limited to consumers located in this state.
7 b. Paragraph "a" shall not apply to a transmission line,
8 wire, or cable that is capable of operating at an electric
9 voltage of thirty-four and one-half kilovolts or greater
10 and that primarily provides electricity through alternating
11 current and is used by rate-regulated electric utilities,
12 municipal electric utilities, rural electric cooperatives, or
13 electric transmission owners to provide electric service to the
14 aforementioned utilities or to the public for compensation.

15 Sec. 2. Section 478.4, Code 2015, is amended to read as
16 follows:

17 **478.4 Franchise — hearing.**

18 1. The utilities board shall consider the petition and
19 any objections filed to it in the manner provided. It shall
20 examine the proposed route or cause any engineer selected
21 by it to do so. If a hearing is held on the petition it may
22 hear testimony as may aid it in determining the propriety of
23 granting the franchise. It may grant the franchise in whole or
24 in part upon the terms, conditions, and restrictions, and with
25 the modifications as to location and route as may seem to it
26 just and proper. Before granting the franchise, the utilities
27 board shall make a finding that the proposed line or lines are
28 necessary to serve a public use and represents a reasonable
29 relationship to an overall plan of transmitting electricity in
30 the public interest. A franchise shall not become effective
31 until the petitioners shall pay, or file an agreement to pay,
32 all costs and expenses of the franchise proceeding, whether
33 or not objections are filed, including costs of inspections
34 or examinations of the route, hearing, salaries, publishing
35 of notice, and any other expenses reasonably attributable to

1 it. The funds received for the costs and the expenses of the
2 franchise proceeding shall be remitted to the treasurer of
3 state for deposit in the department of commerce revolving fund
4 created in section 546.12 as provided in section 476.10.

5 2. a. A finding of public use and public interest shall
6 not be made in regard to a petition for a franchise if the
7 petition sets forth that the exercise of the right of eminent
8 domain will be used and if the petition primarily involves
9 construction of a high-voltage direct current line and
10 the petition does not provide for the erection of electric
11 substations at intervals of less than fifty miles, which is
12 necessary to accommodate both the purchase and sale to persons
13 located in this state of electricity generated or transmitted
14 by the franchisee.

15 b. Paragraph "a" shall not apply to a transmission line,
16 wire, or cable that is capable of operating at an electric
17 voltage of thirty-four and one-half kilovolts or greater
18 and that primarily provides electricity through alternating
19 current and is used by rate-regulated electric utilities,
20 municipal electric utilities, rural electric cooperatives, or
21 electric transmission owners to provide electric service to the
22 mentioned utilities or to the public for compensation.

23 **Sec. 3. NEW SECTION. 478.34 Severability.**

24 If any provision of this chapter or its application to any
25 person or circumstance is held invalid or otherwise rendered
26 ineffective by any entity, the invalidity or ineffectiveness
27 shall not affect other provisions or applications of this
28 chapter that can be given effect without the invalid or
29 ineffective provision or application, and to this end the
30 provisions of this chapter are severable.

31 **Sec. 4. Section 479B.1, Code 2015, is amended to read as**
32 **follows:**

33 **479B.1 Purpose — authority.**

34 It is the purpose of the general assembly in enacting this
35 law to grant the utilities board the authority to implement

1 certain controls over hazardous liquid pipelines to protect
2 landowners and tenants from environmental or economic
3 damages which may result from the construction, operation,
4 or maintenance of a hazardous liquid pipeline or underground
5 storage facility within the state, to approve the location and
6 route of hazardous liquid pipelines, and to grant rights of
7 eminent domain where necessary unless the grant of such rights
8 is specifically prohibited.

9 Sec. 5. Section 479B.2, Code 2015, is amended by adding the
10 following new subsections:

11 NEW SUBSECTION. 2A. "*Major oil pipeline*" means a pipeline
12 that is larger than twelve inches in inside diameter.

13 NEW SUBSECTION. 2B. "*Major oil pipeline company*" means
14 a person engaged in or organized for the purpose of owning,
15 operating, or controlling major oil pipelines for the
16 transportation or transmission of any hazardous liquid.

17 Sec. 6. Section 479B.16, Code 2015, is amended to read as
18 follows:

19 **479B.16 Eminent domain.**

20 1. A pipeline company granted a pipeline permit shall
21 be vested with the right of eminent domain, to the extent
22 necessary and as prescribed and approved by the board, not
23 exceeding seventy-five feet in width for right-of-way and
24 not exceeding one acre in any one location in addition to
25 right-of-way for the location of pumps, pressure apparatus,
26 or other stations or equipment necessary to the proper
27 operation of its pipeline. The board may grant additional
28 eminent domain rights where the pipeline company has presented
29 sufficient evidence to adequately demonstrate that a greater
30 area is required for the proper construction, operation, and
31 maintenance of the pipeline or for the location of pumps,
32 pressure apparatus, or other stations or equipment necessary to
33 the proper operation of its pipeline.

34 2. A pipeline company granted a permit for underground
35 storage of hazardous liquid shall be vested with the right of

1 eminent domain to the extent necessary and as prescribed and
2 approved by the board in order to appropriate for its use for
3 the underground storage of hazardous liquid any subsurface
4 stratum or formation in any land which the board shall have
5 found to be suitable and in the public interest for the
6 underground storage of hazardous liquid, and may appropriate
7 other interests in property, as may be required adequately to
8 examine, prepare, maintain, and operate the underground storage
9 facilities.

10 3. This chapter does not authorize the construction of
11 a pipeline longitudinally on, over, or under any railroad
12 right-of-way or public highway, or at other than an approximate
13 right angle to a railroad track or public highway without
14 the consent of the railroad company, the state department of
15 transportation, or the county board of supervisors, and this
16 chapter does not authorize or give the right of condemnation or
17 eminent domain for such purposes.

18 4. A major oil pipeline company as defined in section 479B.2
19 that has not received a permit under this chapter on or before
20 January 12, 2015, shall not be granted, or otherwise vested
21 with, the right of eminent domain.

22 Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
23 immediate importance, takes effect upon enactment.

24 Sec. 8. APPLICABILITY. The sections of this Act amending
25 sections 478.3 and 478.4 are applicable to petitions for
26 franchise filed on or after November 1, 2014, that have not
27 been acted upon by the board on the effective date of this Act
28 and to petitions for franchise filed on or after the effective
29 date of this Act.

30	EXPLANATION
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31 The inclusion of this explanation does not constitute agreement with
32 the explanation's substance by the members of the general assembly.

33 This bill relates to the construction, erection,
34 maintenance, or operation of electric transmission lines and
35 hazardous liquid pipelines.

1 In determining whether to grant a petition for a franchise to
2 construct, erect, maintain, or operate an electric transmission
3 line, the Iowa utilities board is required to find that, among
4 other requirements, the proposed line or lines are necessary
5 to serve a public use and represent a reasonable relationship
6 to an overall plan of transmitting electricity in the public
7 interest. The bill provides that a finding of public use and
8 public interest shall not be made in the event a petition for
9 a franchise primarily involves construction of a high-voltage
10 direct current line and the petition does not provide for the
11 erection of electric substations at intervals of less than 50
12 miles, which is necessary to accommodate both the purchase and
13 sale to persons located in Iowa of electricity generated or
14 transmitted by the franchisee.

15 Additionally, current Code section 478.3, specifying
16 franchise petition requirements, provides that for the
17 purposes of that Code section, the term "public" shall not be
18 interpreted to be limited to consumers located in Iowa. The
19 bill modifies this provision to instead specify that the term
20 "public" as used in Code chapter 478 in reference to public
21 use, interest, and needs shall refer to and be limited to
22 consumers located in this state.

23 With reference to both the restriction against a finding
24 of public use and public interest for the high-voltage
25 direct current line and the limitation of the term "public"
26 to consumers located in Iowa, the bill provides that these
27 provisions shall not apply to a transmission line, wire, or
28 cable that is capable of operating at an electric voltage
29 of 34 and one-half kilovolts or greater that primarily
30 provides electricity through alternating current and is
31 used by rate-regulated electric utilities, municipal
32 electric utilities, rural electric cooperatives, or electric
33 transmission owners to provide electric service to the
34 aforementioned utilities or to the public for compensation.

35 Further, the bill provides that if any provision of Code

1 chapter 478 or its application to any person or circumstance is
2 held invalid or otherwise rendered ineffective by any entity,
3 the invalidity or ineffectiveness shall not affect other
4 provisions or applications of the Code chapter that can be
5 given effect without the invalid or ineffective provision or
6 application, and to this end the provisions of the Code chapter
7 are severable.

8 With relation to hazardous liquid pipelines, the bill adds
9 two new definitions to Code section 479B.2. The bill defines
10 a "major oil pipeline" to mean a pipeline that is larger than
11 12 inches in inside diameter. The bill defines a "major oil
12 pipeline company" to mean a person engaged in or organized
13 for the purpose of owning, operating, or controlling major
14 oil pipelines for the transportation or transmission of any
15 hazardous liquid. The bill provides that a major oil pipeline
16 company that has not received a permit under Code chapter 479B
17 to construct, maintain, or operate a major oil pipeline on or
18 before January 12, 2015, shall not be granted, or otherwise
19 vested with, the right of eminent domain.

20 The bill takes effect upon enactment. The provisions of
21 the bill relating to petitions for a franchise to construct,
22 erect, maintain, or operate an electric transmission line
23 apply to petitions for franchise filed on or after November 1,
24 2014, that have not been acted upon by the board on the bill's
25 effective date and to petitions for franchise filed on or after
26 that date.